were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-13 of the '889 Patent in view of the cited McConnell patent, U.S. Patent No. 4,232,295. Applicants request reconsideration of these rejections based on the above amendments and the following.

As noted above, applicants have amended Claims 29 and 50 as applicants believe was suggested by the Examiner. Applicants submit that as amended, these claims now comply with 35 USC § 112, first paragraph. Attached as Exhibit A is a copy of Claims 29 and 50 with markings to show the changes that have been made.

With respect to the rejection of independent Claims 27, 35, 41 and 48 under 35 USC § 101, the question is, applicants submit, whether the "same invention" is being claimed twice. In this regard, the "same invention" means that the "identical subject matter" falls within the scope of both the claims of this application and the claims of the '889 Patent. See Section 804 (II)(A) of the Manual of Patent Examining Procedure ("MPEP") and the cases cited therein. In other words, is there an embodiment of the invention that falls within the scope of one set of claims, but not the other. Id. In this regard, it should be noted that the MPEP, Section 804 (II)(A), cites, as an example, a claim reciting a compound having a "halogen substituant" and noting that the claim is not identical or substantially the same as a claim reciting the same compound, except for having a "chlorine substituant" in place of the "halogen," because "halogen" is broader than the "chlorine."

Applicants submit that Claims 27, 35, 41 and 48 of their present application and Claims 1-13 of the '889 Patent do not cover identical subject matter, and thus are not for the "same

invention." They do not describe the same subject matter. For instance, application Claims 27, 35, 41 and 48 all recite a "song record" that includes "song identity data comprising at least one of a song title, a song category, a song address, a song size, graphic address, graphic size and play count." None of the 13 claims of the '889 Patent describe "song identity data" in these terms. See independent '889 Patent Claims 1 and 7 where "song identity data," is said to represent "the identity of each such song." For this reason and for other reasons --for instance, the inclusion of "means for displaying" in all the '889 Patent claims whereas no such quote "means for displaying" is recited in any of the application claims -- applicants submit that the application claims and the '889 Patent claims do not describe the "same invention."

As to the rejection of the application claims on the grounds of the judicially created doctrine of obviousness-type double patenting, applicants are submitting herewith a Terminal Disclaimer. Applicants submit that this submission overcomes the rejection of these claims as well as any obviousness-type double patenting rejection that may be applicable to Claims 27, 35, 41 and 48.

Applicant has reviewed the information disclosed in the Information Disclosure Statement submitted herewith and herebefore as well as the patents cited by the Examiner in the Office Action. Applicants submit that application Claims 27-52 patentably distinguish over this information and the patents, whether considered individually or in combination.

In view of the foregoing, applicants submit that their application is in condition to be passed to issue. Prompt action in this regard is requested. Should the Examiner have any questions regarding the foregoing or believes that a telephone conference would advance the prosecution of the application, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

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